

MEMORANDUM OF UNDERSTANDING

between

THE PORT OF CHELAN COUNTY AND THE CITY OF WENATCHEE

This Memorandum of Understanding is entered into by and between the City of Wenatchee ("the City") and the Port of Chelan County ("the Port") and pertains to the possible purchase and development of property located at the eastern terminus of Orondo Street, in Wenatchee, Washington, commonly known as the Pybus or Morse property (hereafter, the "Property"). The Property is intended to be divided into two parcels identified as the Pybus Market and the Port Parcel.

PURPOSE

The purpose of this Memorandum of Understanding between the City and the Port is to provide a cooperative and constructive framework for the parties as they continue to determine the feasibility of developing, constructing, and managing a publicly owned and community oriented facility (the "Pybus Market").

The City and the Port, in their respective capacities, agree to work toward the goal of spurring and supporting economic and tourism growth within the City and within the region as a whole.

RECITALS – BACKGROUND

- A. The City of Wenatchee has established a "Local Revitalization Financing District" along the Wenatchee Waterfront and on Riverside Drive ("the District"). It is the City's intent to revitalize and redevelop the District's waterfront area to spur economic opportunities for the City, businesses located within the City, and its citizens.
- B. As part of this revitalization effort, the City continues to support the redevelopment of properties within the District.
- C. The City has been seeking targeted funding from the federal government to assist the City's goal to redevelop and revitalize the District, and has been notified of an award for the Pybus Market.
- D. The City has relocated its public works building in furtherance of this revitalization and redevelopment goal for the District. The City further intends to invest in improvements to the waste water treatment plant with funding that is separate from the funds sought to revitalize the District.
- E. For the past several months, the Port and the City have investigated the possibility of acquiring and redeveloping the majority of the Property to include the Pybus Market.
- F. The Pybus Market could include an outdoor farmer's market, agricultural sales, a permanent indoor private market and related activities and other space for market-related

private retailers. It is further the hope and desire of the parties that the Pybus Market will become a facility that supports and promotes existing and future tourism related activities in Chelan County. As part of the waterfront planning process, the City recently completed the "south node planning charrette" in January of 2009. It is anticipated that the Pybus Market will act as a catalyst for significant private development that would not otherwise occur, or would take considerably longer to occur given the current economic conditions. The Port, as part of its comprehensive planning process completed in 2008, identified ag-tourism as a key industry in Chelan County. In addition, the City and the Port have engaged in several joint efforts regarding the waterfront, regional traffic studies, and economic development projects, including, for example, the Port's \$250,000 contribution to the new dock facilities at the Orondo Street boat launch.

- G. There are always a certain number of risks and intangibles in any project. No project is bullet proof. However, the parties recognize that spending local, state, and federal dollars over the next two years will bring significant benefit to the local community in terms of jobs and other opportunities, which in turn creates additional tax dollars to support local municipalities.
- H. The parties have agreed to evaluate redevelopment of the Property and the Port has taken the step of entering into a contingent Purchase and Sale Agreement for the Property effective January 29, 2010. From the inception, the Port has indicated that it will invest a maximum of two million dollars (\$2,000,000) for the redevelopment of the Property, which includes the purchase price for the Property, improvements and all costs and professional fees incurred evaluating the purchase of the Property.
- I. As set forth in the Purchase and Sale Agreement, the purchase price for the Property is a minimum of \$1.33 million, with an escalation of the purchase price over time to \$1.36 million, depending on when closing occurs, if it occurs. The last possible date for closing is August 31, 2010.
- J. If closing occurs, the City will be the lead in the development, construction, and the management of the Pybus Market. The City shall invest an equal or greater amount than the Port's financial investment. As a condition of redevelopment, the parties must enter a long-term ground lease agreement for the Pybus Market, wherein the Port will be the lessor and the City will be the lessee.

AGREEMENT

NOW, THEREFORE, in light of the foregoing Purpose, Recitals, and Background, the City and the Port agree upon the following principles as they move forward with the evaluation and possible development of the Pybus Market:

1. Cooperation; Sharing of Information. The parties shall work in a cooperative and collaborative manner to investigate the purchase of the Property by the Port and the development of the Pybus Market by the City. The Port and the City agree to make their respective staff available for meetings, as reasonably requested by either party, to ensure that information is exchanged on a regular and consistent manner. The parties will endeavor to share

all studies pertaining to the Pybus Market, including environmental, financial feasibility, structural and cost estimate studies, and any other related studies. Simultaneously with approval of the Memorandum by the parties, the Port will make the appraisal it obtained for the Property open for public inspection, and will provide the City a copy of the appraisal.

2. **Project Costs.** A financial feasibility study was publicly presented at a Port Commission meeting on February 18, 2010. As additional information is made available the study may be revised and updated prior to the Port making a final decision to purchase the Property. As part of the study a number of estimates were made regarding the costs to construct and operate the Pybus Market. Although all of the estimates are approximate and very preliminary, it appears that the Pybus Market could cost upwards of \$5.5 million dollars to complete.

2.1 The Port has limited its investment in the Property to \$2 million, which includes all professional fees, studies, evaluations, closing costs, purchase price and the like associated with the acquisition of the Property.

2.2 If the Port purchases the Property, it is anticipated that approximately \$500,000 may be available for infrastructure improvements to be performed by the City on the Property (this represents the balance of the \$2 million being made available after taking into consideration the costs of purchasing the Property as set forth in Section 2.1, above). The source of the funds associated with the City's commitment to the Pybus Market is not critical to the Port in its decision to purchase the Property, nor is the source of funds critical in the availability of funds from the Port after closing. It is more critical that the Pybus Market is completed in a timely fashion and that the City has or will have the funds available to complete the Pybus Market. Put another way, if the City obtains state and federal funding for all portions of the project it is responsible for, it is acceptable to the Port that Port funds are the only local funds initially contributed to the purchase of the Property and construction of the Pybus Market. The Port understands that the timely completion may include a phased plan, meeting code, that would allow for occupancy and start up to proceed with a phasing of other site needs, all as more specifically described in the anticipated lease between the City and the Port.

3. **City Financing.** One of the critical components of the success of the Pybus Market will be the ability of the City to identify significant sources of funding for the Pybus Market that are not currently available or are currently undefined. For example:

3.1 The City has been specifically identified as a recipient for \$1.46 million in funding from the federal government for the Pybus Market and food bank related activities, thanks to Senator Patty Murray's efforts.

3.2 As part of the formation of the District, the City has been approved for a state match (or tax credit) called the Local Revitalization Financing District that can provide \$500,000 per year over 25 years, provided that new sales tax generation and property tax benefit meets or exceeds \$500,000 in a given year after July 1, 2010. The state match is an all or nothing proposition. The parties appreciate the significant

financial benefit associated with the City successfully obtaining the matching funds from the state.

3.3 The City will take the lead in obtaining the necessary funds to complete the Pybus Market. The Port will not participate or assist in obtaining these funds, unless specifically requested by the City to do so and only after the parties have identified the precise role for the Port in pursuing said funds. Due to the nature of the LRF funding, currently committed funds may require a phasing of the project with a near-term goal of getting the market open and operating as quickly as possible. The phasing of the City's construction of the Pybus Market will be more fully set forth in the Lease between the parties.

4. **Public Participation.** The City will take the lead on all public participation aspects of the Pybus Market, including but not limited to the following:

4.1 Follow up on the public gathering and charrette process conducted on February 25, 2010.

4.2 Coordinate the involvement of the local farmer's market.

4.3 Coordinate the relationship with the food bank.

4.4 Determine the proper management structure for the Pybus Market.

The Port agrees that its staff will be made available to attend meetings reasonably requested by the City to assist in the public participation aspects of the Pybus Market.

5. **Design of the Pybus Market.** The City will take the lead for the design of the Pybus Market, after taking into consideration comments received from the Port and as a result of the public participation process. The City shall involve the Port on a regular and frequent basis as the design for the Pybus Market is developed. Since the Port's interest is primarily that of a landlord, the Port's participation in this process is primarily to ensure that the value and desirability of the Property is enhanced.

6. **Coordination with Neighboring Property Owners.** The City and the Port will jointly coordinate the involvement of the Public Utility District No. 1 of Chelan County and other property owners who are adjacent to the Pybus Market with the goal of resolving access, utilities, parking, and related development issues that would normally arise if the entire vicinity were viewed as a single project.

7. **Port – City Lease.** Prior to closing, the parties agree to negotiate the terms of a long term lease for the Property in anticipation of proceeding with the development of the Pybus Market. It is anticipated the long term lease shall have the following components, among others:

7.1 The base rent will be set forth in the Lease. The base rent shall be subject to an escalation clause on terms to be negotiated as part of the Lease.

7.2 The parties will negotiate in good faith to establish a revenue sharing provision as part of the terms of the Lease.

7.3 Understanding that the project will have a period of "ramp up" before revenues will be generated, it is anticipated that rent may be deferred for three years from a date to be established as a part of the Lease.

7.4 The Lease will provide that the City is responsible for all construction activities related to the Pybus Market.

7.5 As part of the Lease negotiations, the parties will discuss a first right of refusal for the City to purchase the Property if the Port ever elects to sell the Property.

8. **On-Site Improvements; Public Works; Permits; Port Parcel.** The City will take the lead in the development of all improvements on the Pybus Market, including compliance with all public works contracting requirements, and seeking and obtaining all necessary permits and completing all necessary environmental review. As part of the Lease negotiations, the parties will discuss the Port's desire that the Property be divided into two (2) parcels – the much larger parcel would be the subject of the Lease Agreement with the City as described herein (the Pybus Market), and a smaller building pad on the northern end of the Property that will not be included in the Lease Agreement with the City (the "Port Parcel"). As part of the permitting process, the City will pursue a binding site plan or similar planning process to identify the Pybus Market and the Port Parcel. The Port Parcel will be separately developed or leased by the Port. The parties agree to discuss a right of first refusal, which will give the City an opportunity to purchase the Port Parcel in the event the Port elects to sell the Port Parcel. The Port parcel may, as a part of the development plan, have mutual access, parking and shared common area and maintenance charges.

9. **Management of the Pybus Market.** The management of the Pybus Market shall be the sole responsibility of the City. City Council has provided direction that the project must be self supporting and therefore, how the City elects to structure the management of the Pybus Market is committed entirely to the discretion of the City. Whether or not a Port representative will be a member of any committee or board associated with the Pybus Market is yet to be determined. If the Pybus Market is completed, any comments received by the Port associated with the management and conduct at the Pybus Market shall be routed to and responded to by the City, as the tenant under the Lease Agreement.

10. **Timetable; Contingency.** Time truly is of the essence. The Parties agree to negotiate and attempt to establish the material terms of the Lease Agreement prior to closing. In addition, the parties agree to pursue completion and/or significant progress of as many other items as possible by the end of June, 2010 to enable the Port to evaluate the purchase prior to August 31, 2010.

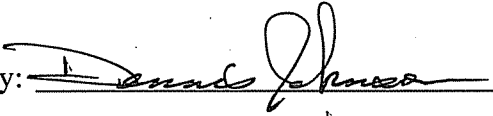
EFFECT OF MEMORANDUM OF UNDERSTANDING

11. **Effect of this Memorandum.** This Memorandum of Understanding establishes the cooperative and collaborative desire of the parties to determine the feasibility of the Pybus Market and the roles and relationship of the parties as the evaluation of the Pybus Market moves

forward. This Memorandum of Understanding is meant to guide the parties as they move forward. It is not intended as a legally enforceable contract and no suit may be brought for its alleged breach.

12. **Counterparts.** This Memorandum of Understanding may be signed in counterparts, all of which together, or facsimile copy, shall constitute one and the same document.

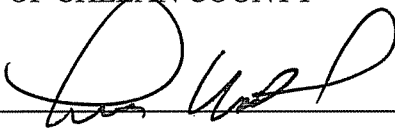
CITY OF WENATCHEE

By: 

Name: Dennis Johnson

Dated: March 25, 2010

PORT OF CHELAN COUNTY

By: 

Name: Mark Urdahl

Dated: April 1, 2010